

**Confidentiality & Utilizing the Confidentiality Questionnaire\***  
**in Disclosure Decisions**

TAS Symposium  
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**I. Instructors**

A. Week One

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B. Week Two

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**II. The course objectives are:**

- Explain TAS's policy on confidentiality and the purpose of this policy.
- Identify situations in which disclosure of taxpayer information to the IRS may be necessary and the procedures for making these disclosures.
- Utilize the Case Advocate Confidentiality Questionnaire and the Local Taxpayer Advocate Confidentiality Questionnaire when making a nonstandard disclosure determination.
- Train your Case Advocates on the principles of confidentiality and best practices in filling out the Case Advocate Confidentiality Questionnaire.

**III. Pre-Course Assessment**

Please take 5 minutes and complete the 10-question quiz.

**IV. IRC § 7803(c)(4)(A)(iv)**

“Each Local Taxpayer Advocate... may, at the taxpayer advocate’s discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.”

## **V. Purpose of Confidentiality**

- Encourages taxpayers to trust and seek help from TAS
- Encourages taxpayers to freely communicate with TAS in order to resolve their problems
- Calms a taxpayer’s fears that information provided to TAS will be used to the taxpayer’s detriment
- Strengthens TAS’s independence and neutrality

## **VI. Communicating Confidentiality to Taxpayers**

A. Example: The Internal Revenue Code gives the Taxpayer Advocate Service the discretion not to disclose certain information to the IRS. In general, to provide you the assistance or relief you are requesting, TAS will likely have to disclose to the IRS information you provide. If you ask me not to disclose to the IRS what you tell me, or the fact that you have contacted the Taxpayer Advocate Service, TAS will generally honor your request.

## **VII. What Information is Covered by IRC § 7803 (c)(4)(A)(iv)?**

- Information provided by taxpayer or taxpayer’s representative to TAS
- Disclosures to IRS employees
- TAMIS information, notes, internal TAS memos containing identity of taxpayer or taxpayer’s representative who contacted TAS, or taxpayer –provided information.
- Caution: If the information comes to TAS from the taxpayer, TAS has discretion not to disclose. If, however, the same information comes to TAS from a third party, IRC § 7803 (c)(4)(A)(iv) does not apply.

## **VIII. What Information Requests are not Covered by IRC § 7803**

(c)(4)(A)(iv)?

- a. Requests for information obtained from third parties.
- b. Requests for information obtained from the IRS.
- c. Information requests from TIGTA, GAO, the Department of Justice, and the Office of Chief Counsel.

## **VIII. Types of Disclosure**

- a. Standard Disclosure
- b. Emergency Disclosure
- c. Nonstandard Disclosure

## **IX. Case Studies**

## **X. Post Course Assessment**

1. TAS's discretion not to disclose taxpayer contact or taxpayer – provided information to the IRS is contained in:
  - a. IRC § 7803
  - b. IRC § 6103
  - c. IRC § 7214
  - d. Privacy Act
  - e. All of the above
2. The discretion not to disclose taxpayer contact or taxpayer-provided information to the IRS may be exercised by the following parties:
  - a. The Local Taxpayer Advocate
  - b. The Area Director
  - c. The Director of Taxpayer Account Operations (now MAPS)
  - d. The Deputy National Taxpayer Advocate
  - e. All of the above.
3. The Case Advocate routinely discloses taxpayer-provided information to the IRS in order to get relief for the taxpayer. This type of disclosure is:
  - a. Standard
  - b. Emergency
  - c. Nonstandard
4. TAS may exercise its discretion in appropriate cases to withhold information from:
  - a. Criminal Investigation Division
  - b. TIGTA
  - c. Department of Justice
  - d. GAO
  - e. All of the above
5. TAS may exercise its discretion to withhold information that is obtained from:
  - a. The Department of Motor Vehicles
  - b. The taxpayer or his/her representative
  - c. The taxpayer's landlord
  - d. The internet
6. The most frequent type of disclosure is:
  - a. Standard
  - b. Emergency
  - c. Nonstandard

7. Confidentiality Questionnaires are filled out by:
  - a. The Case Advocate and the Local Taxpayer Advocate
  - b. The Local Taxpayer Advocate and the Area Director
  - c. The Taxpayer and the Case Advocate
  - d. See attached Questionnaires
8. If the Department of Justice requests information from TAS files, the Area Director should contact the:
  - a. Counsel to the National Taxpayer Advocate
  - b. National Taxpayer Advocate
  - c. Director of Taxpayer Account Operations (now MAPS)
  - d. Taxpayer or his/her representative
9. TAS personnel should explain the confidentiality rules to the taxpayer or his/her representative:
  - a. During the first contact
  - b. Prior to sending an OAR
  - c. Prior to closing the case file
  - d. After consultation with the Local Taxpayer Advocate
10. The TAS confidentiality policy serves the following purposes:
  - a. Strengthens TAS's independence and neutrality
  - b. Encourages candid communication with taxpayers
  - c. Encourages taxpayers to trust and seek help from TAS
  - d. All of the above

**XII. Acknowledgements** – a special thanks to each of these individuals:

- a. Rose Anderson
- b. Susan Hartford
- c. Tracy Bui
- d. Vanessa Sloane
- e. Patrice Daniels

**XIII. Attachments - Questionnaires**

## Local Taxpayer Advocate Questionnaire

## Attachment 1

**Note:** The LTA questionnaire is intended to ensure that the disclosure decision explicitly takes into account several important factors, including whether the need for disclosure outweighs the important benefits of assuring taxpayers that their sensitive communications will generally remain confidential from the IRS.

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**LTA Q1:** What specific information are you considering disclosing to the IRS?

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**LTA Q2:** Does the information at issue relate to any item on the following checklist?  
(Answer yes or no to each item.)

- a) Threat of serious bodily harm or injury to self or others? (Disclosure required to TIGTA or applicable law enforcement.) \_\_\_\_
- b) Felony reportable under 18 USC 4 (involving intent to conceal a felony under federal law, *e.g.*, bank robbery, income tax evasion, bankruptcy fraud, bribery, money laundering, etc.)? (Disclosure required to TIGTA and/or Department of Justice.) \_\_\_\_
- c) Employee crimes or other official misconduct? (Disclosure required to TIGTA and/or Department of Justice.) \_\_\_\_
- d) Request by Taxpayer that TAS assist the taxpayer in defrauding the United States, conspire against the United States, or participate in or further any violation of the internal revenue laws. (Disclosure required to TIGTA and/or Department of Justice.) \_\_\_\_

**LTA Q3:** Has the Taxpayer clearly indicated a specific awareness of or intent to commit or assist a criminal or fraudulent act?

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**LTA Q4:** What other options are available, besides disclosure, to mitigate or avoid harm?

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**LTA Q5:** Is the information at issue available from a source other than TAS?

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**LTA Q6:** What is the likelihood that other IRS systems and functions would uncover this information?

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**LTA Q7:** What is the impact if there is no system in place or if a system fails to uncover this information: (In answering this question, the LTA should review the Case Advocate's responses to questions 6 through 9.)

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**LTA Q8:** Is this impact in LTA question 7 significant or insignificant?

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**LTA Q9:** Does this case involve any of the following situations?

- a) Any criminal violation of law allowing the taxpayer to receive a financial benefit under the internal revenue laws that the LTA clearly knows the taxpayer is not entitled to receive. \_\_\_\_
- b) Any act that the LTA believes was knowingly undertaken or participated in by the taxpayer for the specific and unlawful purpose of evading the assessment or collection of the correct amount of tax (from the taxpayer or another taxpayer). \_\_\_\_

If the answer to either of the above is yes, please explain. In cases involving these criminal violations of law, the information at issue, if relevant to the improper receipt of a tax benefit, generally must be disclosed to the IRS. If you nevertheless believe that the information should not be disclosed, please explain your reasoning in detail.

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**LTA Q10:** If this case does not involve any of the situations listed in Q2 or Q9, it is the policy of TAS that confidentiality enhances taxpayer trust in, and use of, TAS and enhances TAS's ability to resolve difficult cases. If you nevertheless believe that the information at issue should be disclosed, please explain your reasoning.

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## Case Advocate Questionnaire

## Attachment 2

### When should this questionnaire be completed?

The questionnaire should be completed when:

- ◆ the taxpayer refuses to take the necessary steps to come into compliance with the tax laws, or has disclosed other information that you believe should be disclosed to the IRS,
- ◆ you have received this information from the taxpayer/authorized representative,
- ◆ the IRS does not have the information, and
- ◆ standard disclosure of the information is not possible (see IRM 13.1.5), for example, because the taxpayer no longer seeks TAS's assistance or has requested the information to be kept confidential.

*Remember:* TAS's discretion not to disclose the information does not apply if anyone other than the IRS is requesting the information. For example, if the Department of Justice or TIGTA is requesting the information, these procedures do not apply. Elevate this type of request to your Local Taxpayer Advocate.

### Why and how should this questionnaire be completed?

The questions below are designed to ensure that the Local Taxpayer Advocate has adequate factual information on which to make a decision. Your "answers" should be based only on facts about the communications from the taxpayer (or the taxpayer's representative).

*Remember:* TAS's discretion not to disclose the information does not apply if it comes to TAS from a third party.

### Case Advocate Questions:

**CA Q1:** What information are you considering disclosing to the IRS? Who is requesting it, who will receive it, and what will it be used for?

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**CA Q2:** How and why did the taxpayer come to TAS for assistance?

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**CA Q3:** What is the reason given by the taxpayer, if any, for why he or she does not want further TAS assistance?

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**CA Q4:** What significant facts has the taxpayer provided to TAS that are not otherwise available to the IRS? Be specific.

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**CA Q5:** Identify sources where other related information came from, for example, third parties, IDRS, another IRS automated system. Be specific.

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**CA Q6:** What is the potential impact on the taxpayer if TAS discloses to the IRS the information at issue?

a) Will the information possibly affect the amount of tax liability? If so, by how much?

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b) Will the information possibly affect the ability of the IRS to collect tax due and owing? If so, in what way?

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c) Is there potential for the information to harm the taxpayer's reputation or cause a loss of privacy (*e.g.*, disclosure of an illness)?

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**CA Q7:** What is the potential impact to the tax system in this case if TAS does not disclose to the IRS the information at issue?

a) Will it create a potential collectibility problem?

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b) Could the impact be carried forward or back to other years?

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c) Could this impact be repeated in future tax years?

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d) What is the potential monetary value of this impact, if known?

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e) Has the taxpayer specifically requested and/or has any TAS employee agreed to keep the information confidential?

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**CA Q8:** Are there any related cases involving the same taxpayer (*e.g.*, linked by SSN, relationship, business entity)?

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**CA Q9:** Are there any other specific taxpayers (including entities) that are affected by this case? If yes, identify taxpayers and describe potential impact on these taxpayers.

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**CA Q10:** Are there any open controls on this case? If so, identify the function and the status.

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**CA Q11:** Is the taxpayer alleging (to the IRS or a third party) that TAS said or did something that TAS did not say or do? If yes, specifically state the taxpayer's allegations.

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**CA Q12:** Has the taxpayer made allegations of criminal wrongdoing or fraudulent actions regarding an employee of the IRS?

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**CA Q13:** Are there any other facts relevant to this case that the LTA needs to know in exercising his or her disclosure discretion under IRC § 7803(c)(4)(A)(iv)?

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